

**MEMORANDUM**

**To: Civil Justice Task Force Members**  
**From: Amy Kjose Anderson, Civil Justice Task Force Director**  
**Date: March 28, 2014**  
**Re: 35-DAY MAILING – Spring Task Force Summit: Civil Justice Task Force**

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The American Legislative Exchange Council will host the Spring Task Force Summit from **May 1-2** at the **Kansas City Marriott Downtown** in **Kansas City, MO**. If you have not registered for the conference, you may do so [here](#). **The Early Bird Registration deadline and the Hotel Deadline fall on April 4<sup>th</sup>.**

**About This 35-Day Mailing**

This is an electronic-only 35-Day Mailing. If you choose to have 35-Day Mailings “snail-mailed” to you, please let me know. We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

**Meetings Civil Justice Task Force Members Should Attend:**

- Civil Justice Task Force Lunch Meeting, **12:30pm-1:30pm, Friday, May 2**
- Civil Justice Task Force Meeting, **2:00pm-5:00pm, Friday, May 2**

**Please find the following materials enclosed:**

- STFS Tentative Agenda, Registration Materials, and Reimbursement Policy
- Working Agenda for the Civil Justice Task Force Meeting
- Model Legislation for Consideration: The Public Participation Protection Act and accompanying discussion piece
- ALEC Mission Statement & Task Force Operating Procedures

**Travel and Accommodations:** The conference hotel for STFS is the **Kansas City Marriott Downtown** located at 200 West 12th Street, Kansas City, MO. **The deadline for making your hotel accommodations is April 4<sup>th</sup>, which is also the deadline for registering at the Early Bird Rate.**

**For State Legislators:** For Task Force members, the Civil Justice Task Force will cover two nights in the host hotel directly and reimburse travel expenses up to \$350.

I will be on maternity leave during the Spring Task Force Summit. My colleague, Karla Jones, Director of the International and Federal Relations Task Force, will be running the meeting with the Task Force Chairmen. If you have any questions in the next couple weeks, please contact me at (202) 870-1110 or by e-mail at [aanderson@alec.org](mailto:aanderson@alec.org). If you need assistance immediately preceding the meeting or during the meeting, please contact either Briana Mulder, ALEC’s Policy and Intern Manager, at (571) 482-5004 or [bmulder@alec.org](mailto:bmulder@alec.org) or Karla Jones at (202) 870-4221 or [kjones@alec.org](mailto:kjones@alec.org).

## **2014 Spring Task Force Summit Schedule of Events**

**Friday, May 2<sup>nd</sup>, 2014**

9am – 12pm Subcommittee Meetings

12:30pm – 1:30pm Task Force Luncheons

2pm- 5pm Task Force Meetings

5:30pm – 7pm Kansas City Reception

# 2014 ALEC SPRING TASK FORCE SUMMIT

May 1 - 2, 2014

Kansas City Marriott Downtown  
200 W 12th St • Kansas City, MO 64105

## ATTENDEE REGISTRATION / HOUSING FORM

Early registration deadline: April 4, 2014

Housing cut-off date: April 4, 2014



Online [www.alec.org](http://www.alec.org) Email [meetings@alec.org](mailto:meetings@alec.org) Fax 703.373.0932 Phone / Questions 571.482.5056 (Mon-Fri, 9am-5pm EST)

### ATTENDEE INFORMATION

Prefix \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_ Suffix(s) : \_\_\_\_\_  
Badge Nickname: \_\_\_\_\_ Title \_\_\_\_\_  
Organization (required) \_\_\_\_\_  
Preferred Mailing Address: ☐ Business ☐ Home \_\_\_\_\_  
City \_\_\_\_\_ State/Province \_\_\_\_\_ Country \_\_\_\_\_ ZIP/Postal code \_\_\_\_\_  
Preferred Phone ☐ Work ☐ Home ☐ Mobile \_\_\_\_\_ Alternate phone ☐ Work ☐ Home ☐ Mobile \_\_\_\_\_ Fax \_\_\_\_\_  
Email (confirmation will be sent by email) \_\_\_\_\_  
On-site Emergency Information Name of Person to Contact: \_\_\_\_\_ Phone \_\_\_\_\_ Relationship to You: \_\_\_\_\_  
Do you have any special physical, dietary (for example, vegetarian, kosher), or other needs: ☐ Yes ☐ No  
If yes, please describe: \_\_\_\_\_

☐ This is my first time attending an ALEC event.

**\*Spouse / Guest:** If registering a spouse or guest, please complete the spouse/guest registration form. Spouse / guest registration is meant to accommodate legal spouses and immediate family members. Attendees from the same organization must register independently.

### REGISTRATION INFORMATION

**\*\* Please note that member fees are subject to verification**

	EARLY until April 4	ON-SITE begin April 5
<input type="checkbox"/> ALEC Legislative Task Force Member	\$ 150	\$ 150
<input type="checkbox"/> ALEC Private Sector Task Force Voting Member	\$ 275	\$ 275
<input type="checkbox"/> ALEC Non-Profit Task Force Voting Member	\$ 275	\$ 275
<input type="checkbox"/> ALEC Legislative Member/ Non-Task Force Member	\$ 300	\$ 400
<input type="checkbox"/> Private Sector Member/ Non-Task Force Member	\$ 550	\$ 650
<input type="checkbox"/> ALEC Non-Profit Member (501(c)(3) status required)/ Non-Task Force Member	\$ 475	\$ 575
<input type="checkbox"/> Legislative/ Non-Member	\$ 400	\$ 500
<input type="checkbox"/> Private Sector/ Non-Member	\$ 675	\$ 825
<input type="checkbox"/> Non-Profit Non-Member (501(c)(3) status required)	\$ 625	\$ 725
<input type="checkbox"/> Legislative Staff/ Government	\$ 400	\$ 500
<input type="checkbox"/> ALEC Alumni	\$ 350	\$ 450
<input type="checkbox"/> ALEC Legacy Member	\$ 0	\$ 0

### METHOD OF REGISTRATION PAYMENT

**Credit Card:** Credit cards will be charged immediately.

☐ Amer Express ☐ Visa ☐ MasterCard

Card # \_\_\_\_\_

Cardholder (please print) \_\_\_\_\_

Exp Date (mm/yy) \_\_\_\_\_ Security Code \_\_\_\_\_

Signature \_\_\_\_\_

### REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5pm EST April 4, 2014 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5pm EST April 4, 2014.

REGISTRATION FEES: \$ \_\_\_\_\_

**Note:** Registration forms with enclosed payments must be received by April 4, 2014 to be eligible for early bird registration rates. Forms and/or payments received after April 4, 2014 will be subject to the on-site registration rate.

### REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

### HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS April 4, 2014

Kansas City Marriott Downtown Arrival Date \_\_\_\_\_ Departure Date \_\_\_\_\_

Sharing with: (Maximum 4 guests per room)

#### Room Type

<input type="checkbox"/> Single	(1 person – 1 bed)	\$149
<input type="checkbox"/> Double	(2 persons – 1 bed)	\$149
<input type="checkbox"/> Double/ Double	(2 persons – 2 beds)	\$149
<input type="checkbox"/> Triple	(3 persons – 2 beds)	\$149
<input type="checkbox"/> Quad	(4 persons – 2 beds)	\$149

#### Special requests

☐ ADA room required:  
\_\_\_ Audio \_\_\_ Visual \_\_\_ Mobile  
☐ Rollaway / crib: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

#### Credit Card Information/ Reservation Guarantee

Credit Card information is required at time of reservation to guarantee the reservation. Card must be valid through December 2014.

☐ Please use the same credit card information as above.

☐ Amer Express ☐ Visa ☐ MasterCard ☐ Discover

Card # \_\_\_\_\_

Cardholder (please print) \_\_\_\_\_

Exp Date (mm/yy) \_\_\_\_\_ Security Code \_\_\_\_\_

Signature \_\_\_\_\_

Room types and special requests are not guaranteed.

All rates DO NOT include city development fee \$1.75 and room tax currently 16.85% (subject to change)

Note: Cutoff for reservations at the ALEC rate is April 4, 2014. After April 4, 2014, every effort will be made to accommodate new reservations, based on availability and rate. The hotel will assign specific room types at check in, based upon availability.

### HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email, fax, or mail within 72 hours of receipt.

### HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation

# 2014 ALEC SPRING TASK FORCE SUMMIT

May 1 - 2, 2014

Kansas City Marriott Downtown

200 W 12th St • Kansas City, MO 64105



## SPOUSE/GUEST REGISTRATION FORM

**Online**  
www.alec.org

**Fax (credit cards only)**  
703.373.0932

**Phone / Questions** • Mon-Fri, 9am-5:00 pm EST  
571.482.5056

### ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Organization \_\_\_\_\_

Daytime phone \_\_\_\_\_

Email (Confirmation will be sent by email) \_\_\_\_\_

### SPOUSE / GUEST REGISTRATION

#### SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.

Prefix \_\_\_\_\_ Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

Prefix \_\_\_\_\_ Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

Prefix \_\_\_\_\_ Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

SPOUSE / GUEST REGISTRATION FEES	Number of Spouse/Guest(s)	Fee	TOTAL
<input type="checkbox"/> Spouse / Guest <i>please note name(s) above</i>	_____	\$ 50	\$ _____

#### METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

**Credit Card:** Credit cards will be charged immediately. Please fax to the above number for processing.

☐ Amer Express Card # \_\_\_\_\_  
☐ Visa Cardholder (please print) \_\_\_\_\_  
☐ MasterCard Exp Date (mm/yy) \_\_\_\_/\_\_\_\_ Security Code \_\_\_\_\_  
Signature \_\_\_\_\_

#### REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

#### REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations are non-refundable after 5pm EST April 4, 2014.

## **STATE REIMBURSEMENT FUND ACCOUNT POLICY (WHERE APPLICABLE):**

The purpose of the State Reimbursement Fund Account is to provide funding for state lawmakers to attend ALEC conferences, state focus events, and membership events. In those states which allow the establishment of a State Reimbursement Fund Account to be administered by ALEC in Arlington, VA, the Private Sector Chair (where permissible by state law), along with the Public Sector Chair, monitors both contributions and expenditures from that account. The Coordinator of Corporate and Nonprofit Affairs maintains the State Reimbursement Fund account and issues monthly reports of State Reimbursement Fund activity to the regional representatives at ALEC. The regional representatives then provide fund activity to the Public and Private State Chairs and Vice Chairs for their review. Contributions to the ALEC State Reimbursement Fund are tax deductible as ALEC is a non-profit 501(c)(3) corporation. All expenditures from the fund – where applicable – must be approved by the State Chair. No expenditures shall be approved for State Reimbursement Fund Accounts with negative balances. Likewise, no expenditures shall be approved if such will result in the State Reimbursement Fund Account having a negative balance. All disbursements from the ALEC State Reimbursement Fund must be in conformance with all applicable laws, regulations, and rules. Revisions and deviations from this Policy will be made whenever necessary to ensure that the State Reimbursement Fund Account is in full compliance with any applicable law, regulation, or rule.

State chairs must use the template letter with the ALEC logo and the template invoice. The public sector state chair must sign the template letter. Public Sector State Chairs have flexibility to add the signature(s) of the Private Sector State Chair, National Chair or Executive Director. State delegations are encouraged to complete fundraising efforts by the end of the first quarter.

## **AMERICAN LEGISLATIVE EXCHANGE COUNCIL BYLAWS:**

### **Section 10.07 State Reimbursement Funds.**

All funds for ALEC State Reimbursement Funds shall be deposited in accounts designated by the ALEC Legislative Board of Directors. State Chairs are prohibited from establishing, maintaining, or utilizing the accounts. Account expenses can be for ALEC only. Violation of this section shall constitute grounds for (1) immediate removal from a leadership position, and (2) dismissal from membership in accordance with these bylaws.

## **TRAVEL REIMBURSEMENT POLICY BY MEETING:**

### **Spring Task Force Summit:**

1. Spring Task Force Summit Reimbursement Form: ALEC Task Force members are reimbursed by ALEC up to \$350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for a two-night stay are reimbursed by ALEC.
3. Official Alternate Task Force Members (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) will be reimbursed in the same manner as Task Force Members.
4. State Reimbursement Form: Any fees above \$350.00 or for expenses other than travel and

room expenses can be submitted by Task Force Members for payment from the state account upon the approval of the State Chair. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member, not the State Chair, to mail their signed request to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202.

5. Non-Task Force Members can be reimbursed out of the state fund upon approval. Receipts must be submitted to the State Chair who will submit the signed form to the Senior Director of Membership and Development.

### **ALEC Annual Meeting:**

State Reimbursement Form: State funds are available for reimbursement by approval of the ALEC State Chair. Expenses are reimbursed after the conference and may cover the cost of travel, room & tax, and registration. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member to mail their signed request form to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202.

### **ALEC States & Nation Policy Summit:**

1. States & Nation Policy Summit Reimbursement Form: ALEC reimburses \$2,000.00 per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for state for new ALEC legislators. ALEC recipients are selected by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Senior Director of Membership and Development.
2. State Reimbursement Form: Any other fees or payments must be made out of the state account with ALEC's approval. Receipts must be submitted to the State Chair who submits the signed form to the Senior Director of Membership and Development.

### **ALEC Academies:**

Academy Reimbursement Form: Attendees to ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the academy and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member to mail their signed request signed form to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Senior Director, Policy and Strategic Initiatives.

***Civil Justice Task Force Meeting  
Tentative Agenda***

Spring Task Force Summit | Kansas City Marriott Downtown | Kansas City, MO  
May 2, 2013 | 12:30 p.m.-5:00 p.m.

**12:30 p.m. Civil Justice Task Force Lunch**

**1:30 p.m. Break**

***Task Force Meeting***

**2:00 p.m. Welcome and Introductions**

**2:15 p.m. State Legal Reform Activity Update**

**2:30 p.m. Panel Discussion:** Selecting State Judges via the Federal Appointment Method

**3:00 p.m. Presentation:** Judicial Nullification of Tort Reform in Florida

**3:15 p.m. Panel Discussion:** Considering Patent Litigation Reform at the State Level

**3:45 p.m. Discussion and Vote:** The Public Participation Protection Act

**4:15 p.m. Presentation:** Exploring Class Actions and Consumer Protection Claims Following Recent Supreme Court Decisions

**4:30 p.m. Roundtable Open Discussion:** New Issues in Lawsuit Reform Around the Country

**4:50 p.m. For the Good of the Order**

**5:00 p.m. Adjournment**





## Public Participation Protection Act

### *Summary*

The ALEC Public Participation Protection Act is intended to encourage and safeguard public participation in civic society. Some have abused the civil justice system by filing, or threatening to file, lawsuits against those who express their views on matters of public concern. The goal of such lawsuits is not to win on the merits. Rather, the purpose of the lawsuit is to discourage, intimidate, retaliate against and, ultimately, silence critics by forcing them to spend time and money to defend themselves in litigation.

The model act protects individuals and organizations that speak, petition the government, and associate with others on matters of public concern from lengthy, expensive litigation, while preserving the ability of people and businesses to file meritorious lawsuits. Under the model act, a person who is hit with a lawsuit that impedes his or her First Amendment rights can request an expedited hearing, and, if the court finds the claim lacks merit, is entitled to recover attorney's fees and costs. A plaintiff can recover such expenses if a defendant abuses the expedited process.

Approximately 29 states and the District of Columbia have enacted legislation along these lines, which are often called "anti-SLAPP laws" (Strategic Lawsuits Against Public Participation). The model act draws from several such laws, including those enacted in California, Oregon, and Texas.

### *Model Legislation*

#### **Section 1. {Title.}**

This Act shall be known and may be cited as the Public Participation Protection Act.

#### **Section 2. {Time for Filing Special Motion to Dismiss; Discovery.}**

(A) A party may file a special motion to dismiss a claim under this Act if the claim is based on, or in response to, an act of the party in furtherance of the right of petition, free speech, or association under the United States Constitution or the [State] Constitution in connection with a public issue, which includes:

(1) the right of free speech by communicating, or conduct furthering communication, in a public forum on a matter of public concern related to (a) health or safety; (b) environmental, economic, or community well-being; (c) the government; (d) a public official or public figure; or (e) a good, product, or service in the marketplace;

(2) the right to petition the government through (a) a communication in connection with an issue under consideration or review by a legislative, executive, administrative, judicial, or other official body; (b) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, administrative, judicial, or other official body; or (c) a communication that is reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, administrative, judicial, or other official body; or



(3) the right of association, meaning a communication between individuals who join together to collectively express, promote, pursue, or defend common interests.

(C) A special motion to dismiss under this section must be filed not later than the 60<sup>th</sup> day after the date of service of the legal action. The court may extend the time to file a motion under this section for good cause.

(D) All discovery in the proceeding shall be stayed upon the filing of a special motion to dismiss under this section. The stay of discovery shall remain in effect until the entry of the order ruling on the motion and any interlocutory appeal thereof. Notwithstanding the stay imposed by this section, the court, on motion by a party or the court's own motion and for good cause shown, may order specified and limited discovery relevant to the motion.

### **Section 3. {Expedited Hearing on Special Motion to Dismiss; Determination; Appeal.}**

(A) The court shall conduct an expedited hearing on the motion. A hearing on the motion shall be held not later than [30] days after service of the motion, or [30] days of ordering discovery under paragraph (D), unless docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties.

(B) Consideration of the Special Motion to Dismiss.

(1) If the moving party makes an initial showing by a preponderance of the evidence that the legal action is based on, or is in response to, that party's exercise of the right to free speech, right to petition, or right of association as defined in Section 2(A), the court shall grant the motion to dismiss unless the party bringing the action states with particularity the circumstances giving rise to the claim and shows by a preponderance of the evidence a probability of prevailing on the merits.

(2) Notwithstanding paragraph (B)(1), the court shall grant the motion to dismiss if the moving party establishes each element of a valid defense to the claim.

(3) In its determination, the court shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(4) The court shall rule on a special motion to dismiss as soon as possible, [but no later than [30] days after hearing the motion. If the court does not rule on a motion to dismiss within this period, the motion is considered to have been denied by operation of law.]

(C) An order granting or denying a special motion to dismiss shall be appealable under [insert reference to state statute or court rule providing grounds for interlocutory appeals].

### **Section 4. {Recovery of Attorneys' Fees and Costs; Sanctions.}**

(A) If the court orders dismissal of a legal action under this Act, the court shall award to the moving party costs and reasonable attorney's fees, including those incurred on the motion.

(B) If the court finds that a special motion to dismiss is frivolous and solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to the party opposing the motion.

### **Section 5. {Exemptions / Rules of Construction.}**

This Act does not:

(A) Apply to an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, or a county attorney;

(B) Result in findings or determinations that are admissible into evidence at any later stage of the case or in any subsequent action;

(C) Affect or limit the authority of a court to award sanctions, costs, attorneys' fees or any other relief available under any statute, court rule, or other authority;

(D) Affect, limit, or preclude the right of the moving party to any defense, remedy, immunity, or privilege otherwise authorized by law;

(E) Affect the substantive law governing any asserted claim; or

(F) Create a private right of action.

**Section 6. {Severability Clause.}**

**Section 7. {Repealer Clause.}**

**Section 8. {Effective Date.}**

This Act shall be effective as to any civil action commenced on or after the date of enactment of the Act regardless of whether the claim arose prior to the date of enactment.

## **Public Participation Protection Act**

### **Section-by-Section Analysis**

**Section 1** provides the title of the Act, the “Public Participation Protection Act.” Laws of this type are often called “anti-SLAPP” laws, which is an acronym for “Strategic Lawsuits Against Public Participation.” SLAPP suits are filed for the purpose of discouraging expression of a view that is contrary to the plaintiff’s interests by imposing legal expenses on the speaker. Anti-SLAPP laws are intended to safeguard the ability of individuals and organizations to express their views on matters of public concern. Approximately 29 states and the District of Columbia have enacted anti-SLAPP laws, which vary significantly from state to state in their scope of protected conduct and procedures.<sup>1</sup> The model act draws from several of these laws and is most closely aligned with approaches taken in California, Oregon, and Texas.

**Section 2** provides those who believe they were sued because they exercised their First Amendment right to freedom of speech, right to petition the government, or right of association with the ability to request that the court expedite consideration whether the case has merit and, if not, dismiss it. An expedited procedure for responding to SLAPP suits is essential. SLAPP suits are intended to force a person or organization to stop its advocacy or expression on an issue of public concern when faced with the costs of defending against a meritless lawsuit. Defense costs begin immediately upon service of a complaint, requiring hiring of an attorney, and quickly mount.

The model act provides that a defendant may file a “special motion to dismiss” within 60 days of being served with a lawsuit. Filing the motion stops discovery in the case, such as requirements for production of documents, answering interrogatories, and submitting to depositions, which are time consuming and costly. A court may permit limited discovery if the court finds it necessary for a party to show whether the case has or lacks merit. Such provisions are common in anti-SLAPP laws.

The types of communication triggering access to this expedited procedure are broadly defined by the model act. For example, advocacy for or against legislation or an administrative action are covered. The model act also makes the expedited procedure available to those who express their positions on matters of public concern in letters to the editor, op-eds, blogs, or as comments to online publications. In addition, the model act extends to individuals who post reviews of products or services on websites. The expedited procedure is available to a person or organization that exercises First Amendment rights as well as any entity that facilitates this communication, such as a newspaper, blog, or website provider, if named in a lawsuit. Several states have enacted anti-SLAPP laws that apply only to statements made before a government body or proceeding without covering other types of expression on matters of public concern. These states may consider expanding their coverage consistent with the model act.

**Section 3** requires courts to conduct an expedited hearing on the special motion to dismiss. The model act recommends that states require the court to hold such a hearing within 30 days of filing of the motion or ordering discovery, unless docket conditions require a later hearing, upon a showing of good cause, or by agreement of the parties. This 30-day period is common among anti-SLAPP laws.<sup>2</sup>

When the court considers the special motion to dismiss, the defendant<sup>3</sup> has the initial burden of showing that the lawsuit implicates protected First Amendment rights. If the defendant makes such a showing, the plaintiff must support the lawsuit by showing “with particularity the circumstances giving rise to the claim” and showing “by a preponderance of the evidence a probability of prevailing on the merits.” The “particularity” element requires a plaintiff to provide more detail explaining the factual basis supporting the complaint (similar to a fraud claim) than typically required in civil litigation.<sup>4</sup> Plaintiffs do not need to prove their case at this early stage. They only need to show a reasonable probability that they could prevail after full discovery and trial. The parties may submit affidavits to the court to provide factual information to the court on which it may decide the motion.

The model act requires a court to rule on a special motion to dismiss “as soon as possible, [but no later than [30] days after hearing the motion. If the court does not rule on the motion within this period, the motion is considered to have been denied by operation of law.]” Several state anti-SLAPP laws require a court to rule within a specific time frame, which helps ensure that defendants do not face mounting litigation expenses or a prolonged threat of liability for expressing themselves.<sup>5</sup> The limited time frame for a court to rule is bracketed because, in some states, courts have found that the legislature may not constitutionally impose procedural rules on the judiciary. Possibly for that reason, many state laws do not require the court to rule within a certain number of days, but provide that the court is to rule in an expedited fashion.<sup>6</sup> Legislators are encouraged to research state constitutional law on this issue before including a specific time frame.

An order granting or denying a special motion to dismiss qualifies for an interlocutory appeal under the state’s existing procedures for such action.<sup>7</sup> Without an immediate appeal for an improper ruling, or a court’s failure to timely rule on a motion, the benefits of the law would be diminished. Many defendants would cede to the demands of a plaintiff to stop their protected speech rather than incur the costs necessary to obtain a decision on the merits and then appeal.

**Section 4** provides that when a court grants a special motion to dismiss, finding that a claim implicating protected First Amendment rights does not have a probability of success, the defendant is entitled to recover attorneys’ fees and costs. When a court denies a special motion to dismiss, it must award the plaintiff attorneys’ fees and costs if it finds that the defendant’s use of the expedited procedure was frivolous and solely intended to cause unnecessary delay.

Ordinarily, each party is responsible for its own fees and costs in civil litigation. In some special situations, states have permitted or required courts to award litigation expenses to a prevailing party, such as when parties would not assert their rights due to the cost of litigation or the low financial value of a claim. The purpose of SLAPP lawsuits is to impose litigation costs on those who express their views and, by doing so, force them to discontinue protected activities. The only way to safeguard such expression is to reimburse a party for such costs when a suit is found to lack merit. If a defendant abuses this process when there is a legitimate claim, then that defendant should reimburse the plaintiff for its reasonable costs in responding to the special motion to dismiss.

**Section 5** exempts law enforcement actions by government officials from the model act and provides several essential rules of construction.

When a court finds that a claim has sufficient merit to continue or lacks merit in response to a special motion to dismiss, those findings or determinations may not be used in later proceedings in that case or in subsequent litigation. While a court may find that a case has a probability of success based on the limited evidence available early in a case, a jury should not be misled by learning of that determination when it has the full evidence before it. For the same reason, a party may not introduce a court’s finding that a claim lacked merit as evidence in a subsequent malicious prosecution action or other lawsuit between the parties.

The model act clarifies that the remedies provided in Section 4 (an award of attorneys’ fees and costs) do not preclude a court from taking other action in response to frivolous litigation as authorized by state law or court rule. For example, it may be appropriate to impose sanctions on a party or attorney, such as a civil fine payable to the court, when evidence demonstrates that the action was brought with the intention of harassing the party or maliciously inhibiting protected rights. A court may also refer an attorney that abuses the legal system to the state bar or disciplinary authority.

The model act is intended only to provide an expedited procedure. It does not impact the substantive requirements for a cause of action, such as the elements of a defamation claim. Nor should a court construe the model act to alter any defenses that are ordinarily available to a claim.

Finally, the model act does not create a private right of action. Nor does it include a “SLAPP-back” provision, which allows defendants who prevail on an anti-SLAPP motion to seek compensatory and, in some instances, punitive damages, in addition to recovering attorneys’ fees and costs.<sup>8</sup> The model act does not include such a provision and does not authorize a court to “imply” a private right of action from its provisions. Under the model act, those who abuse the legal system must pay the attorneys’ fees and costs of the opposing party and may be subject to additional court sanctions.

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<sup>1</sup> Ariz. Rev. Stat. § 12-751 to -752; Ark. Code Ann. § 16-63-501 to -508; Cal. Civ. Proc. Code. §§ 425.16 to 425.18; Del. Code Ann. tit. 10, §§ 8136 to 8138; D.C. Code Ann. § 16-5502; Fla. Stat. Ann. § 768.29; Ga. Code Ann. 9-11-11.1; Haw. Rev. Stat. § 634F-1 to F-4; 735 Ill. Comp. Stat. 110/1 to 110/9; Ind. Code § 34-7-7-1 et. seq.; La. Code Civ. Proc. Ann. art. 971; Me. Rev. Stat. Ann. tit. 14 § 556; Md. Code Ann., Cts. & Jud. Proc. § 5-807; Mass. Gen. Laws Ann. ch. 231 § 59H; Minn. Stat. § 554.01-554.05; Mo. Rev. Stat. § 537.528; Neb. Rev. Stat. §§ 25-21,241 to 246; Nev. Rev. Stat. § 41.635 to .670; N.M. Stat. §§ 38-2-9.1 to -9.2; N.Y. C.P.L.R. §§ 70a, 76a, 3211; Okla. Stat. tit. 12, § 1443.1; Or. Rev. Stat. § 31.150 et seq.; 27 Pa. Cons. Stat. §§ 7707 & 8301 to 8303; R.I. Gen. Laws § 9-33-1 to -4; Tenn. Code Ann. §§ 4-21-1001 to -1004; Tex. Civ. Prac. & Rem. Code §§ 27.001 et seq.; Utah Code Ann. § 78B-6-1401 to -1405; 12 V.S.A. § 1041; Wash. Rev. Code §§ 4.24.500 to -525; *see also Protect Our Mountain Environment, Inc. v. District Court*, 677 P.2d 1361, 1368 (Colo. 1984) (providing a limited anti-SLAPP-like procedure referred to as a “POME motion”).

<sup>2</sup> *See, e.g.*, Ark. Code § 16-63-507(2) (“30 days after service unless emergency matters before the court require a later hearing”); Cal. Code Civ. Proc. § 425.16(f) (requiring the clerk of the court to schedule a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing); Ga. Code Ann. § 9-11-11.1(d) (same as Arkansas); La. Code Civ. Proc. Ann. art. 971(C)(3) (same as California); Or. Rev. Stat. § 31.152(1) (same as California); Tex. Civ. Prac. & Rem. Code § 27.004 (same as California); Vt. Stat. Ann. tit. 12, § 1041(d) (“30 days after service of the motion unless good cause exists for an extension”).

<sup>3</sup> The model act uses the terms “moving party” rather than defendant because, in some cases, a plaintiff who brings a legitimate lawsuit may be subject to a counterclaim stemming from the exercise of First Amendment rights. In most cases, however, “moving party” is synonymous with “defendant.”

<sup>4</sup> Requiring particularity in stating a claim “prevents nuisance suits and the filing of baseless claims as a pretext” to imposing expensive and intrusive discovery. *See U.S. ex rel. Grubbs v. Kanneganti*, 565 F.3d 180, 191 (5<sup>th</sup> Cir. 2009). Similarly, requiring pleading with particularity in claims raising First Amendment concerns will deter the filing of claims that have little chance of success, but are filed as a pretext to discourage expression of a viewpoint, and allow courts to dispose of such claims before defendants incur substantial litigation costs.

<sup>5</sup> *See, e.g.*, 735 Ill. Comp. Stat. 110/20(a) (requiring a hearing *and a decision* within 90 days); Ind. Code § 34-7-7-9(e) (requiring ruling within 30 days of submission of evidence); Nev. Rev. Stat. § 41.660(3)(f) (requiring ruling “within 7 judicial days after the motion is served upon the plaintiff”); Tex. Civ. Prac. & Rem. Code § 27.005(a) (requiring ruling within 30 days of the hearing on the motion); Wash. Rev. Code § 4.24.525 (requiring ruling “as soon as possible but no later than seven days after the hearing is held”).

<sup>6</sup> For example, Arizona’s anti-SLAPP law provides that “[w]hen possible, the court shall give calendar preference to an action that is brought under this subsection and shall conduct an expedited hearing. . . .” Ariz. Rev. Stat. § 12-752(A); *see also* Fla. Stat. Ann. § 768.295 (providing a “right to an expeditious resolution of a claim” and requiring a court to “[a]s soon as practicable . . . set a hearing on the petitioner’s motion, which shall be held at the earliest possible time. . . .”).

<sup>7</sup> About one third of states with anti-SLAPP laws explicitly provide for an interlocutory appeal. *See* Cal. Code Civ. Proc. § 425.16(h); Haw. Rev. Stat. § 634F-2(2); Mo. Rev. Stat. § 537.528(3); Nev. Rev. Stat. § 41.670(4); N.M. Stat. § 38-2-9.1(C); Or. Rev. Stat. § 31.150(1); 27 Pa. Cons. Stat. § 8303; Tex. Civ. Prac. & Rem. Code § 27.008; Vt. Stat. Ann. tit. 12, § 1041(g); Wash. Rev. Code § 4.24.525(5)(d); *see also* 735 Ill. Comp. Stat. 110/20(a) (“An appellate court shall expedite any appeal or other writ, whether interlocutory or not, from a trial court order denying that motion or from a trial court’s failure to rule on that motion within 90 days after that trial court order or failure to rule. . . .”).

<sup>8</sup> About one third of states with anti-SLAPP laws provide a “SLAPP-back” provision. *See* Ark. Code Ann. § 16-63-560(2); Del. Code Ann. tit. 10 § 8138; Haw. Rev. Stat. § 634F-2(8)(A), (9); Minn. Stat. § 554.04(2); Nev. Rev. Stat. § 41.670(1); N.Y. C.P.L.R. §§ 70-a(1)(b), 76-a(2); R.I. Gen. Laws § 9-33-2(d); Utah Code Ann. § 78B-6-1405; *see also* Wash. Rev. Code § 4.24.525(6) (authorizing a prevailing SLAPP defendant to recover statutory damages of \$10,000 in addition to attorneys’ fees and costs).



## **Mission Statement**

To advance free markets, limited government,  
and federalism.



## **American Legislative Exchange Council TASK FORCE OPERATING PROCEDURES**

### ***I. MISSION OF TASK FORCES***

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Legislative Board of Directors.

### ***II. TASK FORCE RESPONSIBILITIES***

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the **specific subject areas** of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
  - publications that express policy positions, including, but not limited to State Factors and Policy Briefs;
  - educational communication and correspondence campaigns;
  - issue specific briefings, press conferences and press campaigns;
  - witness testimony and the activities of policy response teams;
  - workshops at ALEC's conferences; and
  - specific focus events.
- D. The Executive Director is to develop an **annual budget**, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.



### **III. GENERAL PROCEDURES**

- A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Legislative Board of Directors if the issue does not fall within the **jurisdiction** of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all **model bills and resolutions 35 days before** the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have **10 days after the 35-day mailer deadline** to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Advisory Council Chair. The National Chair and the Private Enterprise Advisory Council Chair will in turn refer the matter in question to the Legislative Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co-chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

**The Task Force Board Committee Co-Chairs** shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the **National Chair and the Private Enterprise Advisory Council Chair**. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-day mailer. The National Chair and the Private Enterprise Advisory Council Chair decision is final on this model bill or resolution.

**Joint referral of model legislation and/or resolutions** are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical

language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Enterprise Advisory Council Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Advisory Council Chair.

- B. **The National Chair and the Private Enterprise Advisory Council Chair** will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. **The Legislative Board of Directors** shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Legislative Board of Directors from developing ALEC policy; however, such a practice should be utilized only in exceptional circumstances. Before the policy is adopted by the Legislative Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Legislative Board of Directors.
- D. **The operating cycle of a Task Force** is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.

- E. If a Task Force is **unable to develop an operating budget**, the Legislative Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- F. **The Legislative Board of Directors** shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Legislative Board of Directors, the amount of general support funds available to underwrite such Task Forces.

#### ***IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES***

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31<sup>st</sup>, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two **Co-Chairs**; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:
  - (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
  - (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
  - (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and
  - (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.
  - (5) Reviewing bills that are approaching the five year Sunset as specified in Section

C. Each Task Force shall have an **Executive Committee** appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B)); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F)); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).

D. Each Task Force may have any number of **subcommittees**, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force and the Legislative Board of Directors before it can be considered official ALEC policy.

~~D.E.~~ Joint Task Forces may be established with the approval of the Legislative Board of Directors. Joint task forces would be formed from within an existing task force. Public sector members would be permitted to serve on both task forces until the joint task force reached a level of both public and private sector membership to be self-sustaining. Existing private sector members would be permitted to participate on one or both task forces at their discretion. Joint task forces would be governed by all procedures prescribed for task forces in the Task Force Operating Procedures.

~~E.F.~~ Each Task Force may have advisors, appointed in accordance with Section VI (G). **Advisors** shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

## V. *Task Force Budgets*

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The **operating budget** shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.
- C. The operating budget shall not be used to cover Task Force meeting expenses associated with **alternate task force members'** participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The **programming budget** shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

## VI. ***PROCESS FOR SELECTING TASK FORCE MEMBERS, ALTERNATES, TEMPORARY ALTERNATES, CHAIRS, COMMITTEES AND ADVISORS***

- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing three legislative Task Force Members and up to five Alternate Legislative Members who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the **appointment cannot be made earlier than thirty days** after the new member has been nominated. The Temporary Alternate appointment is the only exception. Each state has one temporary alternate position available for each Task Force. No less than seven days prior to the Task Force Meeting, the State Chair may submit a Temporary Alternate appointment in writing to the Task Force Director. The Temporary Alternate does not have permanent status on the Task Force and may not introduce

legislation. The appointment ends at the adjournment of the Task Force

Meeting. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature.

- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chair will jointly select and appoint in writing **the Task Force Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairs will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Legislative Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairs may reappoint a Task Force Chair to a second operating cycle term.
- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the **Task Force Executive Committee**, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.
- D. Prior to February 1 of each year, the Private Enterprise Advisory Council Chair and the immediate past Private Enterprise Advisory Council Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Advisory Council may appoint in writing **new private sector members** to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Advisory Council and the immediate past Private Enterprise Advisory Council Chair will select and appoint in writing the **Task Force Private Sector Co-Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by

the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Advisory Council. The Chair and the immediate past Chair of the Private Enterprise Advisory Council will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Advisory Council will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Advisory Council may reappoint a Task Force Private Sector Chair to a second operating cycle term.

- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the **private sector members of the Task Force Executive Committee**, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.
- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as **advisors** to the Task Force. The National Chair and the Private Enterprise Advisory Council Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

## ***VII. REMOVAL AND VACANCIES***

- A. The National Chair may remove any Public Sector **Task Force Co-Chair** from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an **Executive Committee or subcommittee** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chair of the Private Enterprise Advisory Council may remove **any Private Sector Task Force Co-Chair** from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed.



For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .

- D. The Private Sector Task Force Co-Chair may remove any **private sector member of an Executive Committee or subcommittee** from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an **advisor** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may **resign** from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.
- G. All **vacancies** for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

## ***VIII. MEETINGS***

- A. **Task Force meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. **Executive Committee meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.  
All ALEC model bills and resolutions will have an original adoption date and five year sunset date which can be renewed by a vote of the Task Force

Executive Committee or the full Task Force and the ALEC Legislative Board of Directors.

All bills or model resolutions that are four years from adoption date will have one year for the Task Force to review and vote on whether to extend another five years. The Task Force Director will transmit all four year old model bills and resolutions to the Task Force Executive Committee no later than **65 Days** before the next Task Force Meeting.

In the **65 Day Notice** ALEC Staff will make one of the following recommendations for each four year model bill or resolution to the Task Force Executive Committee.

- The policy should sunset
- The policy should be amended
- The policy should be retained

The Task Force Co Chairs may appoint a special committee to review the recommendations from the ALEC staff. Executive Committees are to vote **40 Days** prior the next Task Force Meeting. The Executive Committees shall vote by phone, in person, or by any electronic means.

If a two-thirds majority of the Task Force **Executive Committee votes to retain** the model bill or resolution that action is to be reported to the full Task Force. The model bill or resolution will be directly transmitted to the Legislative Board of Directors for consideration. No Task Force vote is necessary since the model bill or resolution is existing policy and both the Task Force Executive Committee and the Legislative Board of Directors will vote to extend the sunset.

If a majority of the Task Force **Executive Committee agrees to sunset, amend, or retain** the model bill or resolution the model policy moves onto the full Task Force. The Task Force Executive Committee will transmit all model bills that are to expire as sunset or that are to be amended to the full Task Force. At the Co-Chairs discretion, any bill or resolution up for task force consideration may be placed on the **consent slate** that will go before the full Task Force.

Any member of the Task Force may make a motion to separate any model bill or resolution from the Consent calendar but must have an additional four members of the Task Force rise in support to second the motion. It would take a majority of the public and private sector bill to take any action on the model bill or resolution.

All model bills retained, amended, or sunset will go before the Legislative Board of Directors for approval before adoption as described in Section IX.

- B. **At least forty-five days** prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or **amendment** of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. **All Task Force meetings are open** to registered attendees and invited guests of ALEC meetings and conferences. Only Legislative Members who serve as regular Task Force Members may introduce any resolution, policy statement or model bill. Private Sector Task Force members will be allowed to participate in the Task Force meeting discussions and be seated at the table during Task Force meetings.
- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the **appointment letter** sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.
- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of **Roberts Rules of Order**, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A **vote** on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. **No proxy, absentee or advance voting is allowed.**
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a **Task Force vote by mail or any form of electronic communication** on any action pertaining to policy

statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

- H. For purposes of Sections VIII(A), (B) and (G), an **emergency situation** can be declared by:
- (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
  - (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.
- I. Ten Task Force members shall **constitute a quorum** for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

## IX. ***REVIEW AND ADOPTION PROCEDURES***

- A. All Task Force policy statements, model bills or resolutions shall become **ALEC policy** either: (1) upon adoption by the Task Force and being deemed within the scope of ALEC's core mission affirmation by the Legislative Board of Directors or (2) 70 days after adoption by the Task Force if no member of the Legislative Board of Directors requests **a formal review by the Board of Directors**, or (3) the National Chair may request an expedited vote on any bill that passed the Task Force by a 2/3 vote and is deemed within ALEC's core mission which waives all the Board deadlines. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director/Senior Director of Policy shall transmit within 20 days all Task Force policy statements, model bills or resolutions to the Executive

Committee of the Board of Directors. The Executive Committee shall review and determine that each bill or model resolution is deemed within the scope of core issues. If not found to be within the scope of core issues the bill is returned to the Task Force. If the bill is found to be within the scope of core issues it shall be placed before the Board for consideration for adoption.

- C. The Executive Director/Senior Director of Policy shall transmit from the Executive Committee to the full Board any policy statement, model bill or resolution within ten days of such approval. Members of the Legislative Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Legislative Board of Directors may request that the policy be formally reviewed by the Legislative Board of Directors before the policy is adopted as official ALEC policy.
- D. A member of the Legislative Board of Directors may request a formal review by the Legislative Board of Directors. The **request must be in writing** and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chair to the appropriate Task Force Chair. The National Chair shall schedule a formal review by the Legislative Board of Directors no later than the next scheduled Legislative Board of Directors meeting. If the model bill or resolution has previously undergone a challenge before the full Board the National Chair may elect any of the following options:
- Allow for a second formal review
  - Allow for a vote only at the next Board Meeting waiving Section IX (E) except for staff analysis.
  - Allow for an early vote of the full board by any means of electronic communication waiving Section IX(E) except for staff analysis.
- E. The review process will **consist of key members of the Task Force**, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Legislative Board of Directors. The following is the review and adoption procedures:
- **Notification of Committee:** Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
  - **Staff Analysis:** Will be prepared in a neutral fashion. The analyses will include:
    - History of Task Force action
    - Previous ALEC official action/resolutions
    - Issue before the Board

- Proponents arguments
- Opponents arguments
- **Standardized Review Format:** To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
  - Task Force Chair(s) will be invited to attend the Board Review
  - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
  - Twenty minutes that is equally divided will be given for both sides to present before the Board.
  - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
  - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.
  - All votes will be recorded for the official record.
- **Notification of Committee:** The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

**F. The Legislative Board of Directors can:**

- (1) Vote to affirm the policy or affirm the policy by taking no action,  
or
- (2) Vote to disapprove the policy, or
- (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

- G.** Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

**X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.**

Exceptions to these Task Force Operating Procedures must be approved by the Legislative Board of Directors.